

SOIL CONSERVATION DIVISION[27]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Financial Incentive Program for Soil Erosion Control,” Iowa Administrative Code.

The proposed amendments change the supplemental allocation deadline from September 15 to September 1. The amendments increase slightly the cost share rates for tree and shrub establishment. The amendments limit eligibility for land already enrolled in USDA’s Conservation Reserve Program. The amendments remove practice descriptions which, by reference, can be found in the Natural Resources Conservation Service technical guide. The amendments also eliminate or modify outdated definitions.

Any interested persons may make written suggestions or comments on the proposed amendments on or before April 13, 2010, at 4:30 p.m. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division’s general waiver provisions.

These amendments are intended to implement Iowa Code section 161A.2.

The following amendments are proposed.

ITEM 1. Rescind the definitions of “Distribution,” “Forest land,” “Highway” and “Segment” in rule **27—10.20(161A)**.

ITEM 2. Adopt the following **new** definition of “Road” in rule **27—10.20(161A)**:

“Road” means the entire width between property lines of the publicly owned right-of-way.

ITEM 3. Amend rule **27—10.41(161A)**, second unnumbered paragraph, as follows:

~~Except for the programs authorized in subrules 10.41(2), 10.41(4), 10.41(5), 10.41(8), and 10.41(9), these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than 50 percent of the approved cost for permanent soil conservation practices.~~

ITEM 4. Amend subrule 10.41(1) as follows:

10.41(1) Voluntary program. Ninety percent of the appropriation is to be used for cost sharing to provide state funding of not more than 50 percent of the approved cost of permanent soil and water conservation practices or for incentive payments to encourage management practices to control soil erosion on land that is now row-cropped.

~~Not more than~~ Up to 30 percent of a district’s original and supplemental allocation may be used for the establishment of ~~management~~ practices listed in subrules 10.82(1) and 10.82(2).

The commissioners of a district may allocate voluntary program funds for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. Funds may be used for construction, reconstruction, installation, or repair of projects. The commissioners must determine that funds are necessary to restore permanent practices to prevent erosion in excess of applicable soil loss limits caused by the disaster emergency. Funds cannot be used unless a state of disaster emergency pursuant to a proclamation as provided in Iowa Code section 29C.6 has been declared. Funds can be used only if federal or state disaster emergency funds are not adequate.

Funds do not have to be allocated on a cost-share basis. Districts are required to report to the division regarding restoration projects and funds allocated for projects.

ITEM 5. Rescind paragraph **10.51(1)“f.”**

ITEM 6. Amend subrule 10.51(2), introductory paragraph, as follows:

10.51(2) Supplemental allocation. The remaining balance of the fiscal year funds plus recalled funds from the mandatory program as distributed in subrule 10.41(3), and from the public lakes fund as distributed in subrule 10.41(2) that were not obligated, from the reserve fund established in subrule 10.57(1), and from districts as specified in subrule 10.51(3) will be provided to the districts in a supplemental allocation. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 15 1. The allocation to any district will be the lesser amount of:

ITEM 7. Amend subrules 10.60(1) and 10.60(2) as follows:

10.60(1) Voluntary.

a. The state will cost-share 50 percent of the cost certified by the certifying technician as being reasonable, proper, and incurred by the applicant in voluntarily installing approved, permanent soil conservation practices, except for tree planting. Eligible costs include machine hire or use of the applicant's equipment, needed materials delivered to and used at the site, and labor required to install the practice.

b. For tree planting and shrub establishment, the following criteria shall apply:

(1) Fifty percent of the actual cost, not to exceed ~~\$365~~ \$450 per acre, including the following:

1. Establishing ground cover;
2. Trees and tree planting operations;
3. Weed and pest control; and
4. Mowing, disking, and spraying.

(2) Fifty percent of actual cost, not to exceed ~~\$120~~ \$150 per acre, for wood plant control.

(3) Actual cost, not to exceed the lesser of ~~\$8~~ \$14 per rod or \$45 per acre protected, for permanent fences that protect planted acres from grazing, excluding boundary and road fencing.

c. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for ~~contouring~~ contour farming; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips. Not more than 30 percent of the district's original allocation and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped.

d. Funding for the restoration of permanent practices damaged or destroyed because of a disaster (see 10.41(1)) does not have to be allocated on a cost-share basis.

e. Where a livestock watering pipe is installed in a grade stabilization structure, cost share is limited to \$500 for the watering pipe and valves. Payment will be made only if the structure is fenced.

10.60(2) Summer construction incentives. In addition to cost share for the establishment of a permanent conservation practice, up to \$200 per acre is available ~~for the establishment of a conservation cover crop and~~ to offset income lost from cropland acres taken out of production during the growing season. Payment will be made upon completion of the permanent conservation practice. To qualify:

a. to e. No change.

ITEM 8. Adopt the following **new** paragraph **10.73(4)“d”**:

d. Tracts of land enrolled in the United States Department of Agriculture's Conservation Reserve Program (CRP) that have more than 90 days left on the contract.

ITEM 9. Amend subrule 10.73(5) as follows:

10.73(5) Need for soil and water conservation practices.

a. Financial incentives shall be available only for those soil and water conservation practices determined to be needed by the district to reduce excessive erosion or sedimentation and included in the designated practices identified in Part 8 of these rules. Such determination of need shall be made by a qualified technician.

b. At the discretion of the SWCD commissioners, practice construction may be allowed during the last 90 days of the CRP contract.

ITEM 10. Amend paragraph **10.74(1)“c”** as follows:

c. Obligation of funds. Following approval of an application, the district may obligate funds for the project or, as appropriate, secure obligation of funds from the division for the amount of the project cost estimate identified on the application. In those cases where funds are not available, the application will be held by the district until funding becomes available or until the end of the fiscal year. Upon obligation of funds, the district shall notify the applicant. The district will maintain a record of funds obligated for approved applications.

ITEM 11. Rescind paragraph **10.81(3)“d.”**

ITEM 12. Rescind and reserve subrules **10.81(8)**, **10.81(9)** and **10.81(10)**.

ITEM 13. Amend rule 27—10.82(161A) as follows:

27—10.82(161A) State designation of eligible practices. Only those soil and water conservation practices listed in this rule are eligible for the Iowa financial incentives program funds.

10.82(1) Tillage Residue and management practices. The division will make one-time payments for residue and tillage management practices.

a. No-till planting. ~~A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.~~

b. Ridge-till planting. ~~A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.~~

c. Strip-till planting. ~~A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.~~

10.82(2) Temporary practices. The division will make one-time payments for temporary practices.

a. Critical area planting. ~~Establishment of vegetative planting to control sediment movement from severely eroding areas by stabilizing the soil. These plantings would include vegetation such as trees, shrubs, vines, grasses or legumes.~~

b. Contouring Contour farming. ~~Farming sloping cultivated land in such a way that tillage operations, planting and cultivating are done on the contour. This includes following established grades of terraces, diversions, or contour strips.~~

c. Contour strip-cropping Strip-cropping. ~~Growing crops in a systematic arrangement of strips or bands on the contour to reduce water erosion. The crops are arranged so that a strip of grass or close growing crop is alternated with a strip of clean tilled crop or fallow or a strip of grass is alternated with a close growing crop.~~

d. Field border. ~~A strip of perennial vegetation established at the edge of a field, to be used as a turn area in lieu of end rows up and down hill to control erosion and provide wildlife food and cover.~~

e. Filter strips. ~~A strip or area of vegetation for removing sediment, organic matter and other pollutants from runoff.~~

f. Pasture and hay planting. Pasture and hay planting will be eligible for funding only when land that has been planted to row crop for three out of the last five years is being converted to permanent vegetative cover.

10.82(3) Permanent practices.

a. Reserved.

b. Diversion. ~~A channel with a supporting ridge on the lower side constructed across the slope to conduct excess runoff water to a suitable outlet.~~ Diversions are eligible for funding only when used to prevent downstream erosion.

c. Field windbreak Windbreak and shelterbelt establishment. A strip or belt of trees or shrubs established within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.

d. Grade stabilization structure. ~~An earthen dam or embankment with a mechanical outlet (pipe conduit, drop spillway or chute outlet) to stabilize the flowline grade or control head cutting in a natural or constructed channel.~~

~~e. *Grass strips.* A strip of tall growing perennial vegetation within or adjacent to a field to reduce sediment damage and soil depletion caused by wind. Reserved.~~

~~f. *Grassed waterway or outlet.* A natural or constructed waterway or outlet, shaped and graded on which suitable vegetation is established, to conduct excess surface runoff water from terraces, diversions or natural watershed basins.~~

~~g. *Pasture and hayland planting.* The establishment of long term stands of adapted species of perennial forage plants, to control excessive water erosion, by converting land from row crop production to permanent vegetative cover. Reserved.~~

~~h. *Terrace.* An earthen barrier or embankment constructed across the field slope using a combination of a ridge and channel to reduce field erosion, and trap sediment. Types of terraces commonly referenced to as broad based, narrow based, grassed backslope, basin, level, gradient and parallel are eligible for Iowa financial incentive payments.~~

~~i. *Underground outlet.* A conduit installed beneath the ground surface to collect surface water from terraces, diversions, water and sediment basins, and convey the water to a suitable outlet. Underground outlets are eligible for Iowa financial incentive funding only when used as a component of eligible permanent practices contained in subrule 10.82(3).~~

~~j. *Water and sediment control basin.* A short earthen embankment with an underground outlet, constructed across the slope in minor watercourses to reduce erosion and trap sediment.~~

~~k. Reserved.~~

~~l. *Conservation cover.* An established and maintained permanent vegetation cover on land.~~

~~m. *Tree and shrub planting.* The establishment of a stand of trees for timber producing and environmental improvement. The minimum eligible area is three acres.~~

ITEM 14. Amend rule 27—10.83(161A) as follows:

27—10.83(161A) Designation of eligible practices. District commissioners may designate which soil and water conservation practices will be eligible for Iowa financial incentive payments in their district. The selected practices must be from the state-approved practices contained in rule 27—10.82(161A). The general conditions contained in rule 27—10.81(161A) and the specifications contained in rule 27—10.84(161A) shall apply to the district designated practices.

ITEM 15. Rescind and reserve rule 27—10.92(161A).